



US Army Corps of Engineers

Norfolk District

Media Advisory

Contact: Diana Bailey
Phone: (757) 441-7673

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Corps issues notice of intent to issue provisional permit for Maersk port facility

What/When: Col. David L. Hansen, District Engineer for the Norfolk District, U.S. Army Corps of Engineers, today signed the notice of intent to issue a provisional permit to APM Terminals to construct and operate a 560-acre marine container terminal along the Elizabeth River in Portsmouth. His decision was based on a mitigated finding of no significant impact after a lengthy environmental assessment. Following a public comment period, the applicant saw fit to resubmit a significantly enhanced mitigation proposal that was determined to appropriately reduce the impacts.

At the conclusion of the review process, the District Engineer determined the public benefits of the project outweigh the detrimental impacts associated with it. .

Background: The District issued a notice of draft finding of no significant impact for public comment on May 28, 2003. This public comment period closed June 27.

Public Review: The district received more than 50 public comments, 19 of which supported the project. Supporters included the U.S. Coast Guard, the Virginia Pilots Association, the Virginia Port Authority, the Hampton Roads Maritime Association, and

the Peninsula Alliance for Economic Development. The remaining comments expressed concern over impacts and appropriate mitigation for those impacts. These agencies included the EPA, Fish & Wildlife Service, the National Marine Fisheries Service, the Elizabeth River Project, the James River Association, the Chesapeake Bay Foundation, Sierra Club and Wetlands Watch. All comments were addressed and, in a great many instances, the applicant willingly obtained additional data to further enhance the environmental assessment. Some of this additional work undertaken at applicant's expense included:

- Consultation with bird expert Ruth Beck, head of the Department of Biology at the College of William & Mary, to assess potential impacts to threatened and endangered species.
- Additional testing to assess the concentration and health of benthic life in the subaqueous areas to be impacted, as specifically requested by several of those who commented.
- Hiring of a diver to provide preliminary assessment of the potential wreck of the CSS Virginia.
- Essential Fish Habitat assessment.
- Public meetings with community representatives.

When added to the environmental assessment, these findings provided a more indepth analysis, as requested by those who commented.

Process:

- From initial pre-application coordination with the applicant through public notice to decision, the Corps undertook thorough review of all public comments, alternatives analysis, assessment of the impacts, and appropriateness of mitigation.
- As part of the avoidance and reduction process, APM undertook exhaustive alternatives analysis and proposed a course of action which, after review, was further modified by the Corps, resulting in the least damaging, practicable alternative for the project.

- Following the process to avoid and minimize impacts, the applicant submitted a significantly enhanced mitigation package for review that addressed impacts to wetlands (tidal and non-tidal), mudflats, and subaqueous bottom. The impacts to benthic marine life were considered significant due to 100 acres of new work dredging, and the filling of 2 acres.
- In summary, the proposed mitigation consists of:
 - o Creation of 17 acres of on-site tidal marsh.
 - o \$770,000 for creation of 14 acres of non-tidal wetlands.
 - o \$300,000 for 2 acres of three-dimensional oyster reefs.
 - o \$5 million for sediment remediation to create enhanced benthic habitat.
- All totaled, the mitigation package will exceed \$6.5 million, a significant adjustment to the initial proposal of under \$1 million.
- This significantly enhanced mitigation was scrutinized by the Corps and found to be appropriate for impacts, which resulted in a mitigated finding of no significant impact.
- The proposal is to issue a provisional permit, contingent on the applicant and the Corps completing consultation with the State Historic Preservation Officer over historic resources that may be impacted as a result of the project.

Based on all of these factors, the Corps found the public benefits of the project outweighed the detrimental effects associated with it.

Significance: Stated Col. David L. Hansen, District Engineer for the Corps in Norfolk, “It is my decision, after consideration and incorporation of all public comments, and based on a mitigated finding of no significant impact, it is in the public interest to issue the permit.”

What happens next: The notice of intent to issue the permit must go to the federal agencies with whom the Corps has a memorandum of agreement within 5 calendar days. These agencies are the Environmental Protection Agency, the National Marine Fisheries Service, and the U.S. Fish and Wildlife. Upon receipt, they have 15 calendar days to seek higher level review of the permit.